Essential tax and wealth planning guide

2027 EDITION



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Welcome

DEAR READER,

A single headline defines some years. This year has been shaped by several developments unfolding at once. Tax policy has continued to evolve since last year's legislation took effect. States have explored new approaches to taxing wealth, income, and property within their own borders. And the ongoing transfer of wealth between generations has remained an important consideration for families planning across generations.

Each development carries its own implications. Together, they offer a more complete view of the planning landscape, which is why this year's guide brings all three into focus rather than treating them as separate stories.

With the enactment of the law commonly referred to as the One Big Beautiful Bill Act (OBBBA, P.L. 119-21), the focus has evolved from anticipating legislative change to understanding implementation and planning for its longer-term implications. The **Tax policy section** examines where implementation stands today and how midterm election results, government funding developments, and a potential lame-duck session may shape the near-term tax landscape. Deloitte's Tax Policy Group continues to deliver timely coverage directly to your inbox through our Tax News & Views newsletter.

The great wealth transfer section looks at what it takes to prepare for a transfer already underway across generations, from legacy assessments to family governance conversations that often matter as much as any single document.

The **Multistate tax developments section** examines how individual states are reshaping the rules governing wealth, income, and property. For families and businesses with ties to more than one state, this has become an important part of the planning conversation. Subscribe to State Tax Matters, our weekly newsletter, to receive news of new multistate tax developments and articles on substantive issues.

As always, tax considerations are only one part of a larger picture that includes your goals, your family, and the legacy you hope to build. Deloitte remains committed to providing new perspectives and actionable guidance on the road ahead. To connect with a member of our Private Wealth practice, please reach out to us at ustaxprivatewealth@deloitte.com.

Regards,



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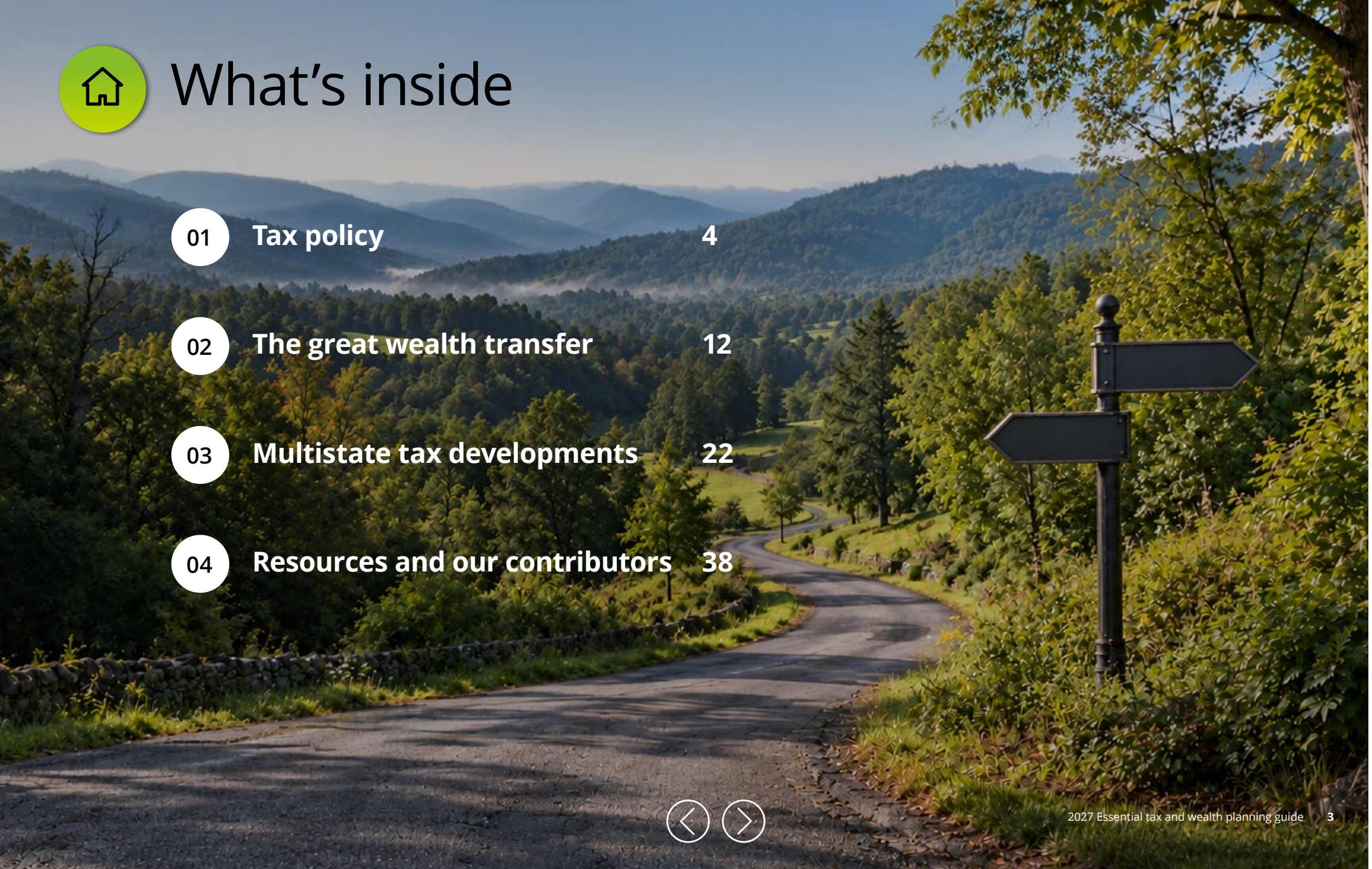
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01 Tax policy





01 Tax policy

Democrats take control of the 120th Congress: 2026 elections and implications for private wealth

Democrats gained leverage in future tax policy debates after winning a majority in the US House and US Senate in the November 3 midterm elections. However, with President Trump occupying the White House, any changes to the Internal Revenue Code will require negotiations between congressional Democrats and the administration in the upcoming 120th Congress, which convenes in January 2027 for the subsequent two years. Measures with the best chances for legislative success will likely be proposals that can attract bipartisan support or that can be attached to a small list of must-pass legislative vehicles over the next two years.

Results at a glance

Based on the latest returns available at press time (as reported by C-SPAN using Associated Press data), **Democrats will control at least 256 House seats in the 120th Congress—surpassing the 218 required for a majority—and Republicans will control at least 171.** Those totals will further increase on both sides in the coming days as results are finalized in the House races that remain undecided.

In the Senate, Democrats have 56 seats, compared to 44 for Republicans. (The Democratic headcount includes two Independents—Sens. Bernie Sanders of Vermont and Angus King of Maine—who caucus with the Democrats.)

Tax policy implications for 2027 agenda

With Democrats controlling all of Congress, President Trump in the White House, and both parties with largely different visions for tax policy, prospects for broad, substantial tax code changes appear dim over the next two years. Nevertheless, bipartisan cooperation on select issues remains possible and, for certain must-pass bills, may prove necessary. Questions surrounding revenue offsets, deficits, and the cost of extending or expanding tax benefits will likely remain central to any tax legislation.

Democrats will also gain control of committee investigative powers, allowing for increased oversight of Treasury and IRS operations, implementation of the law commonly known as the One Big Beautiful Bill Act (OBBBA, P.L. 119-21),[1] the administration's trade policy agenda, as well as oversight of tax strategies used by businesses and high-income taxpayers.

Affordability

Affordability is likely to remain a defining theme of the 2027 tax policy debate. With Democrats controlling both chambers, party leaders will have greater ability to advance their version of legislation focused on the role the tax code can play in addressing household cost-of-living pressures. While Democrats and Republicans are likely to differ on the appropriate policy response, both parties have increasingly framed tax policy discussions around the financial challenges facing workers and families.

Congressional Democrats nevertheless could seek to advance legislation through the House and Senate via budget reconciliation that reflects their tax policy objectives, including proposals aimed at improving affordability for working households such as health care, family and housing issues, and revising provisions of the OBBBA that they view as disproportionately benefiting large business or higher-income taxpayers. Such legislation could help Democrats



[1] 119th Cong., One Big Beautiful Bill Act, P.L. 119-21, July 24, 2025.

articulate policy priorities and draw contrasts with Republicans, even if the primary objective is to shape the policy debate by forcing a presidential veto rather than secure enactment. For private wealth taxpayers, the significance of an affordability-focused tax package may therefore extend beyond the benefits Congress seeks to provide and include potential changes to the individual, investment, business, and other tax provisions used to offset its cost.

At the same time, broader affordability is likely to intersect with questions about investment, energy costs, and technological development. For example, growing electricity demand associated with artificial intelligence (AI) and data center construction has already attracted attention in Washington. Sen. Wyden's recent draft legislative text,[2] which builds on an earlier white paper,[3] proposes limits on certain existing tax incentives and a new excise tax on data centers (Wyden's press release).[4] However, President Trump has championed AI development and the expansion of related infrastructure, saying that data centers promote economic growth, job creation, and lower taxes, implying that bipartisan consensus may be elusive.

Congressional Democrats will likely continue supporting clean energy tax incentives, particularly those enacted in the Inflation Reduction Act (IRA, P.L. 117-169),[5] while using committee hearings and oversight activities to explore the effects of OBBBA provisions that terminated, scaled back, or accelerated the phaseout of several energy credits, including production and investment tax credits. Democrats are likely to pay particular attention to the impact of those changes on wind and solar development. However, without support from the administration, legislative changes may be difficult to enact.

For private wealth taxpayers, the significance of an affordability-focused tax package may therefore extend beyond the benefits Congress seeks to provide and include potential changes to the individual, investment, business, and other tax provisions used to offset its cost.

[2] Sen. Ron Wyden (D-Ore.), Excise Tax on Data Center Services amendment (draft), 119th Cong., October 23, 2026.

[3] US Senate Committee on Finance, "Wyden unveils proposal to ensure data centers pay for disruptions caused to communities," press release, August 6, 2026.

[4] US Senate Committee on Finance, "Amid AI boom, Wyden unveils proposals to ensure wage security, fair contributions from data centers," press release, October 23, 2026.

[5] 117th Cong., Inflation Reduction Act, P.L. 117-169, August 16, 2022.

Possibilities for bipartisan consensus

Despite divided government, several tax issues could provide opportunities for bipartisan agreement in the 120th Congress. To the extent some of these proposals are not addressed during the lame-duck session, however, they could carry over as priorities for bipartisan action next year.

Numerous tax administration proposals have already attracted support from both parties during the current congressional session, including several individual House-passed measures and the Senate-passed Taxpayer Assistance and Service Act (TAS Act, H.R. 5349).[6] Although the House and the Senate have pursued different legislative approaches, many of the underlying reforms overlap.



[6] 119th Cong., Taxpayer Assistance and Service Act (TAS Act), H.R.5349, September 30, 2026.

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Another measure with bipartisan support is the House-passed United States-Taiwan Expedited Double-Tax Relief Act (H.R. 33),[7] which would provide targeted relief from double taxation on cross-border investment between the United States and Taiwan.

Additionally, efforts to expand retirement plan participation could offer opportunities for bipartisan discussion. For example, as a principal advocate of SECURE 2.0 (P.L. 117-328),[8] Rep. Neal welcomed[9] a 2026 executive order[10] issued by President Trump to expand retirement-plan access and promote participation in the law's Saver's Match program, suggesting at least some common ground on efforts to increase retirement savings among low- and moderate-income workers. In addition, targeted technical refinements to retirement savings provisions enacted under SECURE 2.0 could be addressed before year-end given their bipartisan support.

Digital asset taxation is an area where interested parties will be hopeful that lawmakers can find common ground. The House Ways and Means Committee demonstrated that potential this fall when it approved the Digital Asset Tax Certainty Act (H.R. 10357)[11] by a 38–5 vote. For private wealth taxpayers with digital asset holdings, further legislative developments in this area could have implications for tax compliance, charitable giving, and broader planning strategies. Still, tax proposals could get caught up in broader political dynamics, making bipartisan agreement potentially more difficult to sustain.

Treasury and IRS regulatory actions remain important

For private wealth taxpayers and their advisers, regulatory and administrative guidance may be particularly important in determining how recently enacted tax provisions affect planning strategies and compliance obligations. At the same time, Democrats' control of the House and Senate could translate into heightened oversight of Treasury and IRS implementation of the law, including hearings and inquiries into how the agencies interpret certain provisions and administer associated tax benefits. (The 2026–2027 Priority Guidance Plan[12] indicates likely areas of future regulatory action.)

[7] 119th Cong., United States-Taiwan Expedited Double-Tax Relief Act, H.R.33, January 16, 2025.

[8] 117th Cong., Consolidated Appropriations Act, 2023, P.L.117-328, December 29, 2022.

[9] Rep. Richard E. Neal (D-Mass.), "Neal statement on expanding retirement savings through auto IRA legislation," press release, April 30, 2026.

[10] The White House, "Promoting Retirement-Savings Access for American Workers by Establishing TrumpIRA.gov," EO 14403, April 30, 2026.

[11] 119th Cong., Digital Asset Tax Certainty Act, H.R.10357, September 14, 2026.

[12] Department of the Treasury, 2026–2027 Priority Guidance Plan, September 29, 2026.

Potential for action in a lame-duck session

The outcome of the midterm elections will likely affect what lawmakers are able and willing to accomplish during the lame-duck session. With Democrats poised to take control of the House and Senate in the 120th Congress and President Trump entering the final two years of his term, congressional Democrats may see advantages in postponing action on certain issues until 2027 if they believe their leverage will improve in the next Congress. On the other hand, lawmakers could conclude that addressing unresolved matters during the lame-duck session is preferable to carrying them into a new Congress with its own competing priorities.

Wrapping up the 119th Congress

Funding federal government operations will top the lame-duck legislative agenda, an issue that will require bipartisan cooperation. Although Congress prevented a government shutdown by approving a short-term continuing resolution (CR) that extends current funding levels through December 11, lawmakers have yet to reach agreement on all full-year FY2027 appropriations. In the Senate, Republicans will need Democratic votes to finalize a funding measure, setting up potentially difficult negotiations over both duration and funding levels.

Funding federal government operations will top the lame-duck legislative agenda, an issue that will require bipartisan cooperation.



Reconciliation?

Knowing they are losing unified Republican control of government at the start of 2027, GOP leaders could explore whether another reconciliation package is achievable during the lame duck, potentially addressing issues such as the debt ceiling and additional funding for the Department of War. Even if Republicans pursue another reconciliation package, tax provisions are not likely to be a focus. Notably, the GOP's reconciliation efforts this year have not included instructions to the tax-writing committees. While that does not preclude future Republican-backed tax legislation in reconciliation, the omission suggests little appetite among Republican leaders for pursuing another near-term tax package along party lines.

Tax in the mix?

Several bipartisan tax measures could also receive attention before the 119th Congress adjourns. Among them are the Taxpayer Assistance and Service Act, which passed the Senate by unanimous consent and contains provisions similar to tax administration measures previously approved by the House; the House-passed United States-Taiwan Expedited Double-Tax Relief Act; and technical corrections to retirement provisions enacted under SECURE 2.0 (P.L. 117-328).[13] Digital asset tax issues could receive attention, potentially through the bipartisan Digital Asset Tax Certainty Act, which the Ways and Means Committee has cleared.

Other possibilities include expired or expiring tax provisions, such as the work opportunity tax credit and the advanced manufacturing investment credit, as well as proposals addressing domestic film and television production and restoring the prior-law deduction for wagering losses, which provision was included in the Digital Asset Tax Certainty Act. Separately, the Senate could act on the pending nominations of James Gadwood to serve as IRS chief counsel and an assistant general counsel at Treasury and Andrew De Mello to serve as a US Tax Court judge.

[13] 117th Cong., Consolidated Appropriations Act, 2023, P.L. 117-328, December 29, 2022.

02 The great wealth transfer





02

The great wealth transfer

A shift measured in decades, not moments

The Federal Reserve reports that the silent and baby boomer generations held $117 trillion in combined wealth as of early 2026, representing 63% of all US household wealth.[1] As these generations age, a substantial share of that wealth will move to their heirs and to charitable organizations in the coming years.

The shift is often described as a single future event. It is not. Federal Reserve data going back to 1989 shows that wealth is already moving between generations. The silent generation's share of household wealth has fallen from 80% to 11% today, while baby boomers, Generation X, and millennials have each built wealth as it has moved through the generations.[2]

Figure 1. How wealth moves between generations

$185T total US household net worth held across generations (Federal Reserve, Q2 2026)

63% held by the silent and baby boomer generations combined (Federal Reserve, Q2 2026)

37% of family businesses are highly confident their next gen is ready

Source: Federal Reserve Board, Financial Accounts of the United States, Q2 2026

[1] Board of Governors of the Federal Reserve System (FRB), "DFA: Distributional Financial Accounts: Distribution of household wealth in the U.S. since 1989," last updated September 18, 2026.

[2] Ibid.

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That change is also visible among the generations now receiving and building wealth. Gen X's net worth has more than tripled over the past decade, from $13 trillion in 2016 to $45 trillion in 2026, according to Federal Reserve data. Millennials' net worth has increased nearly tenfold over the same period, from $2 trillion to $19 trillion.[3] For planning purposes, the important point is that this shift is affecting family decisions before wealth moves more broadly over the next two decades.

This pattern also hides a detour that matters for planning: Wealth often passes horizontally first, from one spouse to a surviving spouse, before reaching children or grandchildren. Women's life expectancy at age 65 exceeds men's by roughly two-and-a-half years, according to the National Center for Health Statistics,[4] so that first transfer more often passes to a surviving spouse who is a woman.



[3] Ibid.

[4] Sherry L. Murphy et al., "Mortality in the United States, 2023," *NCHS Data Brief* 521 (Hyattsville, MD: National Center for Health Statistics, 2024).

Why transfers stumble

The instinct is to treat this as a technical problem involving estate documents, trust structures, and tax elections. But the evidence, including adviser surveys and specific case histories, points elsewhere first: Many unsuccessful transfers fail on communication, not paperwork.



How plans can go wrong in practice

SCENARIO 1

Consider an entrepreneur who structures an estate plan to preserve a business for the next generation and defer estate taxes. Contrary to the plan, the surviving spouse elects to take assets outright rather than in trust. The election disrupts the planned tax deferral and forces the sale of family assets to cover the resulting tax bill.

SCENARIO 2

In another example, a founder establishes trusts for grandchildren and appoints family members as trustees without explaining how much discretion they would have over distributions. That unresolved question becomes the basis for years of litigation between the grandchildren and the relatives entrusted with administering the trusts.

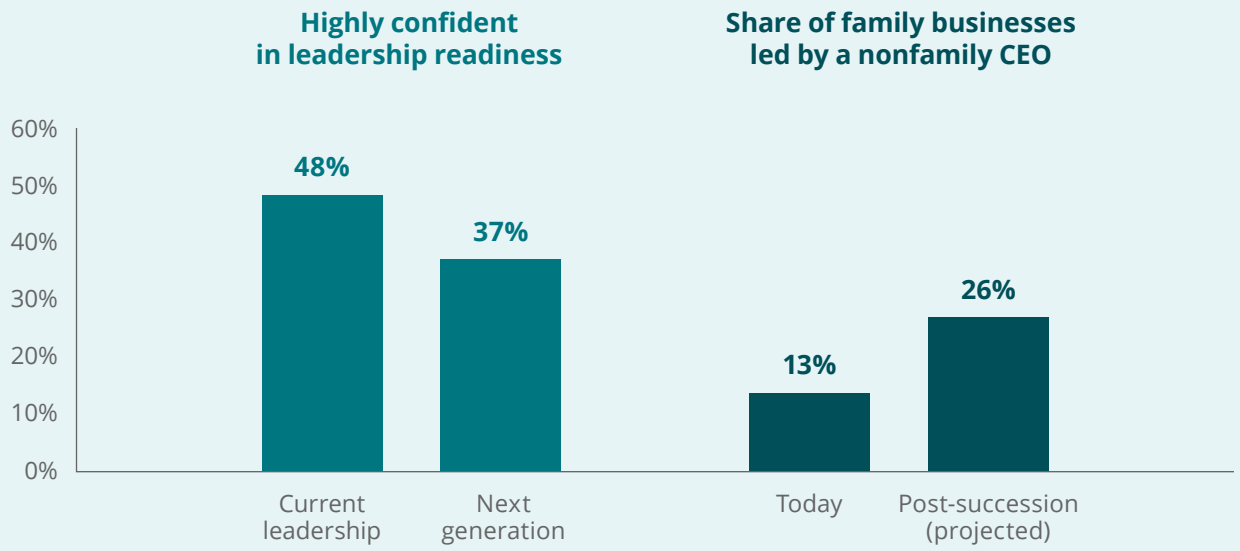
These outcomes do not necessarily stem from drafting errors. Instead, they may reflect a lack of communication and trust. Testing plans against the competing interests and responsibilities of those involved, and discussing those issues in advance, may reduce friction during the transfer of wealth.

The broader lesson is simple: Test a plan against real-world decisions rather than assuming the documents will determine the outcome. Recent research on family businesses quantifies a gap that advisers have described for years.[5]

[5] Deloitte, "Deloitte Private global report reveals succession preparedness gaps as family businesses navigate generational transition," press release, July 8, 2026.

Figure 2. Survey data on succession confidence

CONFIDENCE GAPS IN FAMILY BUSINESS SUCCESSION READINESS



Source: Deloitte Private, *Family business succession planning and the next generation, 2026* (survey of 1,587 family businesses across 35 countries).

Deloitte's 2026 survey of 1,587 family businesses across 35 countries found that fewer than half were highly confident in their current leadership's readiness for succession. Confidence fell to about one-third when respondents assessed the next generation. The share of family businesses expecting a nonfamily executive to hold the CEO role was projected to increase from 13% today to 26% after the next transition.[6]

Families aren't necessarily choosing to bring in outside leadership because they prefer it. In many cases, it becomes the default when internal succession hasn't been actively developed and the next generation wants to follow a different career path.

[6] Deloitte Private, *Family business succession planning and the next generation, 2026*.

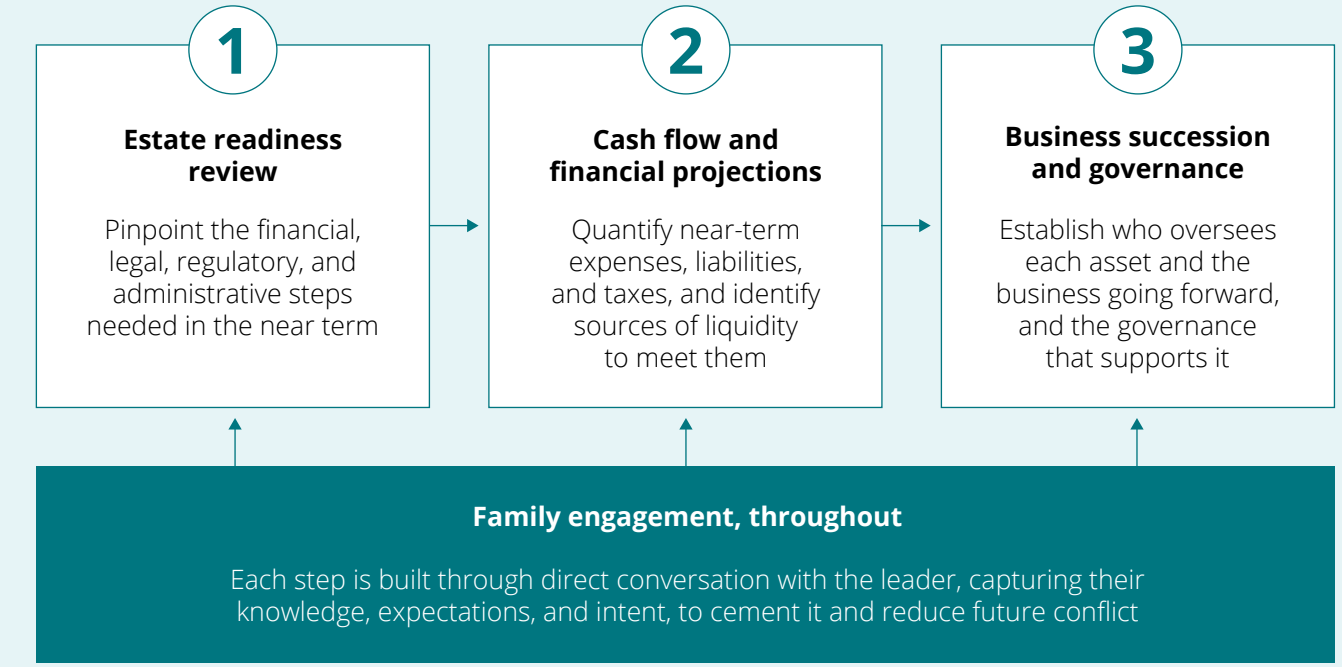
What a legacy assessment addresses

A common assumption is that an estate plan already covers the full scope of wealth transfer planning. However, this is not always the case.

An estate plan is a set of legal documents governing how assets are titled and distributed. It doesn't always provide guidance on whether there will be enough liquid cash to pay the taxes due on an illiquid estate, who will actually end up running a family business day to day, how the business will be governed in the future, how a charitable bequest might unintentionally reduce the capital available to the business, or where beneficiaries are likely to disagree.

A broader assessment of a family's readiness tends to work through three connected questions, each of which surfaces different risks.

Figure 3. Three connected questions a legacy assessment works through



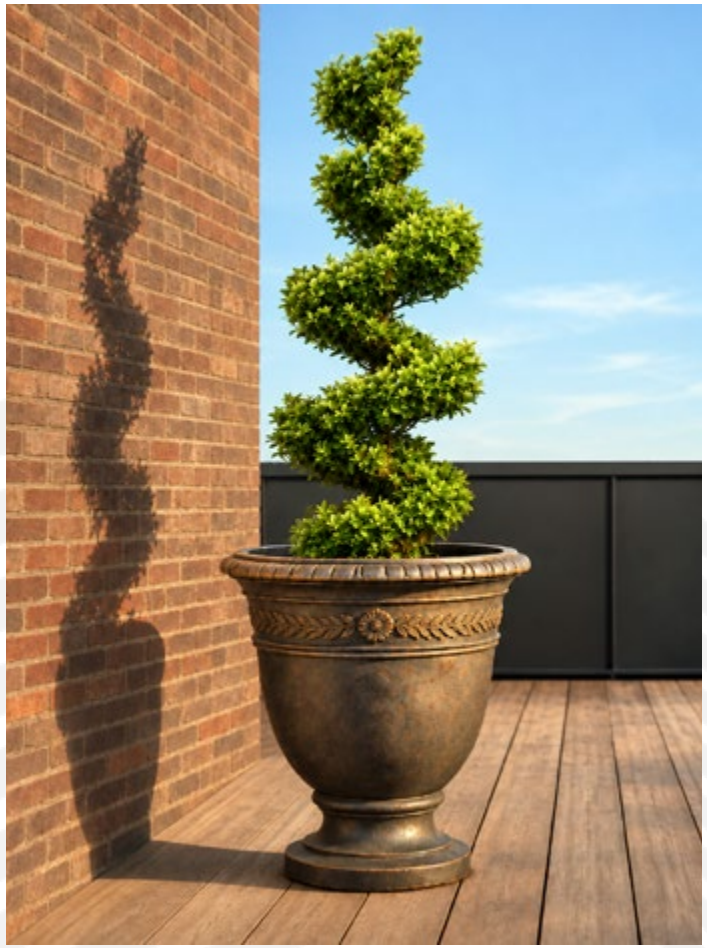
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One valuable practice a family can establish is a regular estate readiness review conducted before it's needed. The idea is straightforward: Walk through the financial, legal, regulatory, and administrative steps that would need to happen shortly after a principal's passing while that person can still answer questions and fill in gaps directly.

Completing this review while the principal is alive allows advisers and family members to address the principal's goals and intent for their wealth, and to ask what trade-offs they are willing to make when priorities compete.

The value of this review lies mostly in timing. Locating account numbers, beneficiary designations, and business agreements is straightforward when the person who signed them is available to provide guidance. It is considerably harder, and often more expensive, when those steps must happen under time pressure and with a grieving family.

The same consideration applies to liquidity. Federal law provides financing tools and deferral mechanisms for an estate that is asset-rich but cash-poor. Liquidity could be a real risk for an unprepared estate, but it is a planning failure rather than an inevitable feature of the tax code.



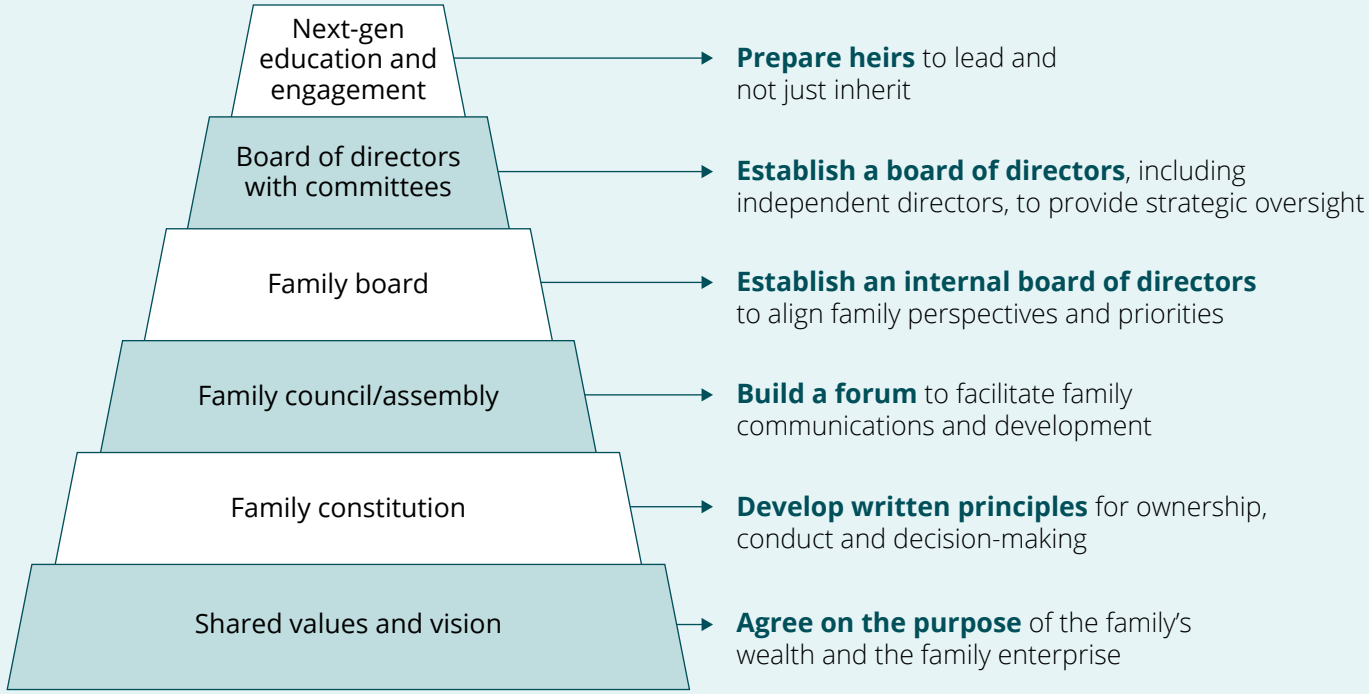
Governance built in layers

A legacy assessment addresses the estate. Family governance addresses everything around it: how decisions are made while family members are living, how disagreements are resolved before they become disputes, and how the next generation learns to steward wealth rather than simply receive it.

Many advisers note a recurring tension between first-generation wealth creators and the next generation. When a fortune is closely tied to a single founder, the founder may be reluctant to formalize decisions that have traditionally rested entirely on one person's judgment. Heirs, meanwhile, increasingly may want documented expectations, a forum for discussion, and greater visibility into decisions that may eventually become theirs to make.

Figure 4. A family governance structure built from the bottom up

FAMILY GOVERNANCE: A STRUCTURE MOST FAMILIES BUILD IN LAYERS



02 The great wealth transfer

Families that effectively manage this tend to build governance progressively and methodically over time rather than all at once. The process develops in layers, starting with informal conversations about shared values and later evolving into more formal structures as the family grows and the stakes rise.

None of this eliminates conflict entirely. A family council or a written constitution can give families a defined way to address disagreements before they evolve into a courtroom dispute or a fractured family.

Families with technically sound succession plans can still experience intrafamily conflict. Clear corporate and family governance can provide support when conflicts arise.



Considerations for the years ahead

The next decade may bring a significant concentration of wealth transfers. Families that wait for a triggering event, such as a diagnosis, a death, or a forced sale, to begin these conversations may face greater time pressure and fewer practical options.

Moreover, family enterprises that do not intend to have a family member lead the business may need to identify external talent with the skills and personality to run the business and engage with the family.

A few practical implications follow:

Distinguish between an estate plan and a broader readiness assessment. Be honest about which one currently exists for your family.

Treat the estate readiness review as a rehearsal for the financial, legal, and administrative steps required after a principal's death, and as an ongoing exercise rather than a one-time document.

Begin succession conversations while they can remain unhurried. Shared values are easier to discuss in the normal course of events than in the aftermath of a loss.

Revisit the estate plan on a fixed cycle, roughly every three to five years, and again after major life events, business transactions, or changes in tax law.

The underlying transfer of wealth will be inevitable. What changes is whether the family experiences it as an unexpected event that happened to them or something they were ready for.



03 Multistate tax developments





03 Multistate tax developments

There is a growing trend among the states to increase taxes on high-net-worth individuals. In this chapter, we highlight new taxes in several states and localities, including noteworthy tax measures that voters approved and rejected in the November election.

Some of these taxes, like the failed wealth tax in California, would have broken new ground by taxing the value of assets, including unrealized gains, but most are imposed on income or property:

- **Higher marginal rates for the top income tax bracket**
- **Surcharges on income above a certain threshold**
- **Taxes on capital gains**
- **Property taxes on high-value second homes**
- **Expanded sourcing rules that operate to tax capital gains in states other than one's state of residence**

03 Multistate tax developments

Expanded sourcing rules may result in individuals receiving unexpected tax bills from a state with which they have little or no direct connection.

For many affected individuals, these taxes may factor into decisions about where to live, own property, and invest. State tax burdens already vary significantly across the country, and recent developments may increase those differences. These developments, particularly proposals involving wealth taxes, also raise policy and legal questions that are beyond the scope of this publication.

The table beginning on the next page summarizes the new taxes. We also included California's Proposition 40, which voters rejected, because its proponents have indicated that they intend to pursue a similar measure in California in 2028, and similar proposals may arise in other jurisdictions.[1] We cover California, New York City, and the topics of residency and taxing gains of nonresidents in more detail below.



[1] Alicia Clanton and Felipe Marques, "California voters poised to reject first-ever billionaire tax," *Daily Tax Report State* (Bloomberg Tax), November 5, 2026.

Multistate tax developments

Where each measure stands

In effect now | Enacted, effective later | Passed Nov. 3 | Failed Nov. 3 | Constitutionally prohibited

Income taxes

Thresholds shown are for single filers. For Maine, Maryland, and Hawaii, the threshold amount is doubled for joint returns. Rhode Island and Massachusetts apply one threshold regardless of filing status.

Maine*	2% surtax on taxable income over $1 million for tax years after 2025, producing a 9.15% top marginal rate.
Maryland	6.25% on taxable income over $500,000 and 6.5% on taxable income over $1 million, plus a separate 2% tax on capital gain where federal adjusted gross income exceeds $350,000, for tax years after 2025.
Massachusetts*	4% surtax on taxable income over $1,107,750 (indexed for inflation going forward) for tax years after 2023.
New York City	Unincorporated business tax credit reduced from 23% for city residents with city taxable income over $1 million, phased down to a reduction of 15% for city taxable income over $1.25 million, for tax years after 2025.
Rhode Island	3% surtax on taxable income over $1 million, phasing in at 1% in 2027 and 2% in 2028 and reaching 3% in 2029, for an 8.99% top marginal rate.
Hawaii	13% top rate on taxable income over $500,000 for tax years beginning after 2026.
Washington*	9.9% tax on income over $1 million per household, for tax years after 2027.
California	Proposition 3 made the existing 10.3%, 11.3%, and 12.3% rates permanent after tax year 2030, which is when they were scheduled to expire.
Colorado	Amendment 87 replaced the 4.4% flat rate with graduated rates reaching 8.4% on income over $1 million, after tax year 2026.

* Maine, Massachusetts, and Washington: These states have passthrough entity tax provisions. This means that for income received from a partnership or S corporation, the entity may elect to pay the state tax on behalf of the partner or shareholder. This reduces the distributive share of income to the partner or shareholder, but effectively allows the partner or shareholder to deduct their state taxes in excess of the federal limitation, which is currently $40,000.

Where each measure stands (continued)

In effect now | Enacted, effective later | Passed Nov. 3 | Failed Nov. 3 | Constitutionally prohibited

Property taxes

New York City	0.8% to 1.3% annual surcharge on non-owner-occupied residential properties with market values of $5 million or more starting July 1, 2026, as discussed in more detail in the New York City section on page 34.
Rhode Island	0.5% annual surcharge on non-owner-occupied residential properties with assessed values above $1 million, and only the portion above it, starting July 1, 2026.

Net worth taxes

California	Proposition 40 would have imposed a one-time 5% tax on the net worth of any individual who was a resident of California on January 1, 2026, and who had a net worth of over $1 billion as of December 31, 2026, as discussed in more detail in the California section below.
Texas	In 2023, voters approved a constitutional amendment that bars the state from enacting a tax measured by net worth.

Ballot-measure results described in this chapter reflect results reported by the relevant election authorities as of November 9, 2026. Reported results remain subject to each state's canvass, certification, and any applicable recount or judicial process.

California's failed wealth tax and other ballot measures

On November 3, 2026, California voters approved Propositions 3 and 42 and rejected Propositions 40 and 41. Proposition 40—the Billionaire Tax Act (or the "Act")—would have imposed a one-time 5% tax on the net worth of any individual who was a resident of California on January 1, 2026, and who has a net worth of over $1 billion as of December 31, 2026.

This highlights a unique aspect of California's political framework. In California, a ballot initiative becomes law if it receives a simple majority of votes cast in the election. By comparison, for the California Legislature to enact a tax law, two-thirds of both houses must approve. Unlike the final text of legislation, which is developed through a deliberative legislative process, a ballot initiative is drafted by its proponents; its text cannot be revised, and voters approve or reject it as written.

A health care workers' union sponsored Proposition 40 in response to reductions in federal health care funding. Its drafters (three tax law professors and an economist) designed the measure to address what they view as a limitation of tax systems that tax income and not wealth: "The taxation system is poorly adapted to the way that today's top sliver of Americans accumulate wealth, contributing to soaring inequality. While the tax system is fairly effective at collecting revenue from wage earners, it allows massive wealth to amass outside the income tax system."[2] *The Wall Street Journal* reported that "the four have advised on a host of similar measures at both the state and federal level that have stalled so far," none of which has been enacted to date.[3]

The drafters also designed the statute to be portable, meaning other states could adopt it with modifications. The table beginning on the next page summarizes the key provisions of Proposition 40.



[2] Juliet Chung, "The four academics who dreamed up California's billionaire tax," *Wall Street Journal*, October 29, 2026.

[3] Ibid.

Proposition 40 at a glance

Tax	One-time 5% excise tax on the activity of sustaining excessive accumulations of wealth. Not deductible for income tax purposes.
Tax base	The entire net worth of an individual who was a California resident on January 1, 2026 (an "Applicable Individual"), with a net worth over $1 billion measured on December 31, 2026. A married couple counts as one Applicable Individual. (For net worth between $1 billion and $1.1 billion, the 5% rate phases in linearly starting at 0% for $1 billion, increasing by 0.1% for each $2 million over $1 billion).
Property included in net worth	All assets owned by the taxpayer and their spouse worldwide are included unless expressly excluded. In addition, the following assets are treated as owned by the Applicable Individual: • Assets above $50,000 owned by anyone who can be claimed as a dependent. • Property transferred to others after October 15, 2025 (e.g., cash and the value of property given away, including to charities). • Assets held in trust, as discussed later. • The value of Roth IRAs in excess of $10 million.

Property excluded from net worth	• Directly held real property—must be held directly or by a revocable trust. • Obligations of the United States that cannot be taxed by reason of 31 U.S.C. § 3124 (e.g., U.S. Treasuries). • Tangible personal property physically outside California for at least 270 days during 2026. • Tax qualified retirement plans such as a 401(k), 403(b), and traditional IRA.
Property held in trusts	• In general, the value of a trust is attributed to an Applicable Individual if the Applicable Individual transferred property to the trust at any time in the past. • If a trust has a beneficiary that is a resident of California, and if there is no attribution to an Applicable Individual, then the beneficiary is treated as owning the trust's assets that are currently distributable to him or her, whether or not distributed.

Proposition 40 at a glance (continued)

Valuation rules	The general rule is "fair market value"—the price property would trade for in an arm's-length transaction between a willing buyer and willing seller. • Publicly traded property is valued using the market price on December 31, 2026 (e.g., publicly traded securities and other property traded on an exchange, like cryptocurrencies, etc.). • Interests in privately owned entities are valued using a prescribed formula: GAAP book value plus 7.5% times GAAP book profits (average of last three years); the resulting value is multiplied by the taxpayer's ownership percentage. • This formula value is presumed correct. A taxpayer may rebut the presumption by obtaining a "certified appraisal" establishing a lower FMV, although discounts (e.g., lack of control and lack of marketability) are expressly prohibited. • In the case of profits interests, a taxpayer's ownership percentage is presumed to equal the maximum percentage of the entity's profits that may be earned. • In the case of interests that have control rights, a taxpayer's ownership percentage is presumed to equal the control percentage. • An asset cannot be valued for less than the amount for which it is insured.

Filing and payment	The tax will be reported on forms included with the personal income tax return, and the tax will be due on the extended due date for filing the return, October 15, 2027. A taxpayer can pay in full, or may elect to pay in five annual installments with a nondeductible 7.5% annual deferral charge. Taxpayers who do not have sufficient liquid assets to pay the tax may qualify for an Optional Deferral Account, which allows for payment over time as assets become liquid, and the obligation continues until fully paid by the taxpayer or their estate.
Penalties and enforcement	If tax is understated by more than 20% of the amount shown on the return, a penalty equal to 20% of the understatement is assessed. If the understatement is more than 40% of the tax shown on the return, the penalty is 40% of the understatement. The Franchise Tax Board (FTB) is directed to audit all individuals who report and pay the tax. The Act also includes anti-avoidance provisions, that effectively direct the FTB to review whether actions taken by a taxpayer were principally for the purpose of tax avoidance. The statute of limitations for the FTB to make an assessment is 10 years, i.e., October 15, 2037.

Multistate tax developments

If enacted, Proposition 40 would have been the first wealth tax in the country. Although it did not pass, its proponents have indicated that they intend to continue advocating for a wealth tax in future election cycles, including in 2028.[4] Because the drafters designed the statute to be portable, conceptually similar proposals may also arise in other jurisdictions.

Several provisions of the Act would have raised legal and policy questions. For example, the Act would have included the current value of certain trust property in a settlor's or beneficiary's taxable net worth, even though settlors and beneficiaries do not own or possess the trust property. Furthermore, gifts (charitable or otherwise) an individual made at the end of 2025 and during 2026 would have been included in the donor's net worth.

During 2026, some high-net-worth individuals and family offices evaluated whether their net worth exceeded $1 billion and how the statute's provisions might apply to their circumstances.

Applying the valuation rules previously discussed to specific circumstances presented practical challenges. Contract rights, deferred compensation, S corporation stock, and interests in partnerships, including venture capital and private equity funds, may be difficult to value. An owner might look to a capital account or liquidation value as an indicator of fair market value. However, the statute would have required the business to be valued under a prescribed formula or through a certified appraisal, and investors may not have had the information needed to apply either method.

The law would have required the Franchise Tax Board (FTB) to audit each individual who reported and paid the tax, and it would have provided a 10-year statute of limitations. This would have resulted in prolonged audits and related administrative appeals and litigation, primarily contesting the value of specific assets, and the potential for additional tax liability, penalties and interest.



[4] Clanton et al., "California voters poised to reject first-ever billionaire tax."

03 Multistate tax developments

The drafters also left many interpretative questions to the FTB, which would have had only a few months to issue regulations. Even so, many questions would have likely remained unresolved well into 2027, although the tax would have remained due on October 15, 2027.

In short, this would not have been an easy tax to understand and apply, especially in such a short time frame. The drafters have published lengthy papers explaining the meaning and intent of the Act's provisions in response to questions from the professional community. Those questions and explanations reflect the Act's complexity.

Voters also decided the fates of Propositions 41, 42, 43, and 3, as shown in the table on the next page.

If enacted, Proposition 40 would have been the first wealth tax in the country.



Tax measures on the November 2026 ballot

Measure	Pass/Fail	What it does or would have done	Interaction with Proposition 40
Proposition 40	Fail	Would have imposed a one-time 5% excise tax on the net worth of individuals who were California residents on January 1, 2026, with a net worth in excess of $1 billion, as discussed above.	N/A
Proposition 41	Fail	Would have nullified state taxes enacted after January 1, 2026, that exempt their revenues from the voter-approved state spending limit. Would have required pre-election and recurring audits of programs funded by new special taxes.	N/A. Both measures failed.
Proposition 42	Pass	Amends the California Constitution to prohibit any new state tax (1) on the ownership or control of retirement holdings, individually owned assets, and other forms of personal savings, or (2) that applies retroactively based on a taxpayer's past activities. Nullifies taxes enacted after January 1, 2026, that conflict with this measure.	Because Proposition 40 failed, no conflict between the two measures arises. However, Proposition 42 may prohibit a similar net worth tax in the future.
Proposition 43	Fail	Would have raised the percentage of votes required to pass local special taxes (e.g., taxes to support a city or school district, etc.) from 50% to two-thirds.	N/A
Proposition 3	Pass	Makes permanent the high-income rates approved in 2012 and extended in 2016, which otherwise expire in 2031, as previously discussed.	N/A

03 Multistate tax developments

The passage of Proposition 42 may prove to be even more significant than the failure of Proposition 40. This is because Proposition 42 amends the California Constitution to prohibit the enactment of any "tax on the ownership or control of retirement holdings, individually owned assets, and other forms of personal savings, whether held directly or indirectly." This constitutional amendment would have to be repealed by the voters in order for California to enact a wealth tax in the future, whether as a ballot initiative or legislation. Proposition 42 also effectively limits the California Legislature to raising revenue by traditional measures (i.e., income, real property and sales taxes).



New York City pied-à-terre tax

New York City enacted an annual tax (referred to as a surcharge) on the market value of homes not used as a primary residence by the owner, an immediate family member of the owner, or a tenant with an arm's-length lease of at least one year. The tax is effective for five years beginning July 1, 2026. The rate depends on the property type and value, as shown in the table on the right. For reasons related to New York City's property assessment rules, condominiums and cooperative units are taxed at a higher rate for the first two years of the tax.

New York City surcharge rates on non-primary residences

For the fiscal years beginning July 1, 2026, and July 1, 2027.

Property type	Market value tier	Rate (applies to entire value)
One- to three-family home	$5M to $15M	0.8%
One- to three-family home	Above $15M to $25M	1.05%
One- to three-family home	Above $25M	1.3%
Condo or co-op dwelling unit	$1M to $3M	4.0%
Condo or co-op dwelling unit	Above $3M to $5M	5.25%
Condo or co-op dwelling unit	Above $5M	6.5%

For the fiscal years beginning July 1, 2028, July 1, 2029, and July 1, 2030.

Property type	Market value tier	Rate (applies to entire value)
All covered property	$5M to $15M	0.8%
All covered property	Above $15M to $25M	1.05%
All covered property	Above $25M	1.3%

State tax residency and sourcing considerations

A state's tax policies may influence individuals' behavior, including whether to reside in a state, own property in a state, or invest in businesses that support the state's economy. For some, tax considerations may be a significant factor in decisions to leave high-tax states for low- or no-tax states.[5] State inheritance taxes may also factor into these decisions, as demonstrated by a few tax cases involving individuals who moved shortly before death with a stated intent not to be subject to the state's inheritance tax.

Press reports suggest that some wealthy individuals left or considered leaving California in anticipation of Proposition 40's proposed net worth tax.[6] The same is true in Washington state, which enacted an income tax on millionaires.[7]

The current trend toward higher state taxes on wealthy individuals may prompt families to evaluate the tax implications of where they live and where they own property. Those considerations may include the impacts of moving elsewhere. Another, less visible development may also affect these decisions: Some states are beginning to tax investment gains realized by nonresident individuals. The next section discusses these developments.



[5] *See* Cristobal Young and Ithai Lurie, "Taxing the rich: How incentives and embeddedness shape millionaire tax flight," *American Journal of Sociology* 131, no. 2 (2025): pp. 371–407 (finding that tax incentives affect migration at the margin, while personal and professional ties constrain mobility); *see also* Enrico Moretti and Daniel J. Wilson, "Taxing billionaires: Estate taxes and the geographical location of the ultra-wealthy," *American Economic Journal: Economic Policy* 15, no. 2 (2023): pp. 424–66 (examining billionaires' residence responses to state estate taxes).

[6] *See* Jeanne Kuang and Kristen Hwang, "Billionaire tax explained: What you need to know about Prop. 40," *CalMatters*, updated October 20, 2026; Biz Carson and Dylan Sloan, "Billionaires ramp up California exits ahead of proposed 5% tax," *Bloomberg Law*, January 8, 2026.

[7] *See* Paul Roberts and Jim Brunner, "Are WA millionaires really leaving to avoid tax?," *Seattle Times*, republished in *The Spokesman-Review*, updated August 31, 2026.

Taxing nonresidents on investment gains

Under most state rules, when an individual sells an interest in a partnership, limited liability company, or S corporation, the gain is generally taxable only by the seller's state of residence. This has been the general rule for so long that many people take it for granted. Over the past few years, some states have changed or attempted to change this rule by treating a portion of the individual's gain as income sourced to, and therefore taxable by, the state. The "portion" the state seeks to tax generally is related to the percentage of business done by the entity in the state, based on tax rules that apportion the income of a business to the various states. The table on the right shows three examples.

How three states reach a nonresident's partnership gain

Gain on the sale of an intangible has generally been taxable only where the owner lives. Each state departs from that differently.

State	How the gain is sourced	What triggers it	Limits and exceptions
Illinois *35 ILCS 5/303(b)(4), added by P.A. 104-6, effective for tax years ending on or after June 16, 2025*	The average of the entity's Illinois apportionment factor for the year of sale and the two preceding years.	The entity is taxable in Illinois. Reaches S corporation shares as well as partnership interests.	An interest in an investment partnership. Whether a lower-tier interest qualifies is tested under Howey.
California *Cal. Code Regs. tit. 18, sections 17952 and 17951-4(d); FTB Legal Rulings 2021-01 and 2022-02*	To the seller's state of residence, unless the seller is unitary with the partnership, in which case the partnership's own factors apply.	Unity. A general partner is presumed unitary. A holding entity formed to give its owner control is unitary. An owner serving as an officer is not passive.	The Office of Tax Appeals rejected the section 751(a) sourcing position in FTB Legal Ruling 2022-02 in July 2026.
New York *N.Y. Tax Law sections 631(b)(1)(A)(1) and 632(a)(1)*	For a real-property-rich entity, in the ratio of New York real property to total assets. For a section 1060 sale, the partnership's business allocation percentage.	New York real property is at least 50% of assets, counting only assets held two years. Or the sale is subject to Internal Revenue Code section 1060.	Gain on intangibles is otherwise sourced to residence unless the property is employed in a business carried on in the state.

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Illinois and New York enacted statutes. By contrast, California and Massachusetts have asserted tax on this basis in audits, which means these positions are less publicly documented. These audit positions may create substantial uncertainty for years while taxpayers challenge them in tax tribunals and courts. Recent cases in California and Massachusetts highlight this point.

CALIFORNIA

A Florida resident did not pay tax to California on gains he realized in 2012 and 2013, relying on existing statutory and case law. The California FTB conducted an audit and assessed tax based on a novel legal theory, as announced publicly in Legal Ruling 2022-02. The taxpayer spent nearly 13 years challenging the assessment and ultimately prevailed in the Office of Tax Appeals, a decision the FTB cannot appeal.[8] While this particular position may be settled in favor of taxpayers, the FTB has also developed another position that results in taxing these gains in a similar manner, as noted in the table.

MASSACHUSETTS

Similar to the situation in California, the Massachusetts Department of Revenue sought to impose tax on a nonresident's gain from the 2013 sale of an interest in a partnership that did business in Massachusetts. The taxpayer challenged the assessment on constitutional grounds, and in 2022, the Supreme Judicial Court of Massachusetts ruled in favor of the taxpayer.[9] The court found that although the Constitution likely permitted Massachusetts to tax a portion of the nonresident's gain, Massachusetts had not enacted a statute to do so.

State and local tax developments may affect where high-net-worth individuals choose to live, own property, and invest, as well as the tax consequences of selling a business interest. The relevant considerations extend beyond tax rates and an individual's state of residence to include the types of taxes imposed and the rules governing residency, valuation, and sourcing. Individuals should work with their tax advisers to monitor developments in relevant jurisdictions and evaluate their potential effects before making significant personal or investment decisions.

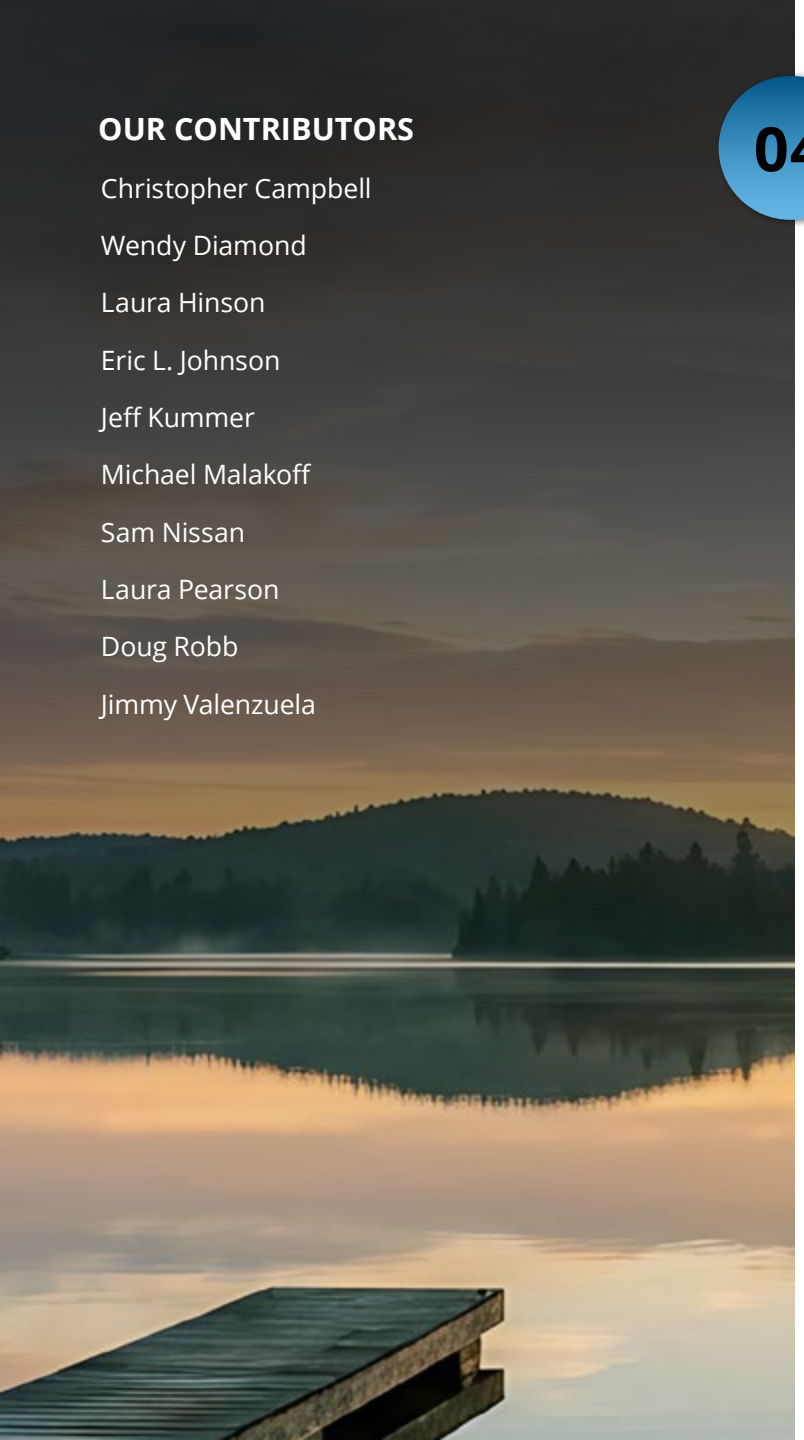
This chapter contains general information only and is not a substitute for professional tax, legal, or financial advice. All figures and statuses reflect publicly available information as of November 16, 2026 and are subject to change as legislation, litigation, and ballot outcomes develop.

[8] *Appeal of Burch*, OTA Case Nos. 230112266 and 230112267, 2026-OTA-527P (Cal. Off. Tax App. July 24, 2026).

[9] *VAS Holdings & Invs. LLC v. Comm'r of Revenue*, 186 N.E.3d 1240 (Mass. 2022).

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RESOURCES

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